

Peter B. Fredman (Cal. Bar No. 189097)
LAW OFFICE OF PETER FREDMAN PC
2930 Domingo Ave, Suite 227
Berkeley, CA 94705
Telephone: (510) 868-2626
Facsimile: (510) 868-2627
peter@peterfredmanlaw.com

Attorneys for Plaintiffs and Counterdefendants
REGINALD and RHONDA DRAKEFORD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

REGINALD and RHONDA DRAKEFORD,
husband and wife;

Plaintiffs,

vs.

CAPITAL BENEFIT, INC., a California
company; MARCEL BRUETSCH, an
individual; ROBERT V. and WALTRAUD M.
WILLIAMS, individually and as Trustees of the
Williams Family Trust; RICHARD WESTIN, an
individual, and DOES 1 through 100, inclusive;

Defendants.

AND COUNTERCLAIM

Case No. 20-cv-04161-WHO

**PLAINTIFFS' PROPOSED JURY
VERDICT FORMS**

Honorable Judge William H. Orrick

Trial Date: March 22, 2022

1 Plaintiffs' proposed verdict forms are attached as follows:

- 2 1. Special Verdict Form for TILA
- 3 2. CACI VF-300 Breach of Contract
- 4 3. Special Verdict Form for RESPA
- 5 4. Special Verdict Form for Rosenthal Act
- 6 5. Special Verdict Form for Breach of Fiduciary Duty
- 7 6. Damages
- 8 7. Punitive damages-Bifurcated-Phase 1
- 9 8. Punitive damages-Bifurcated-Phase 2

10 DATED: March 14, 2022

11 LAW OFFICE OF PETER FREDMAN PC

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14 By /s/ Peter Fredman
15 Peter B. Fredman
16 Attorney for Plaintiffs and Crossdefendants
17 REGINALD and RHONDA DRAKEFORD
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record for each party through the Court's electronic filing service on March 14, 2022 which will send notification of such filing to the e-mail addresses registered.

/s/ Peter Fredman
Peter Fredman

Plaintiffs' Proposed Special Verdict Form for TILA

VERDICT FORM FOR TRUTH IN LENDING ACT ("TILA") CLAIM

To render your verdict on the Drakefords' claim under the Truth in Lending Act (a/k/a "TILA"), please answer each question by checking the appropriate box.

We the jury answer the questions as follows:

1. Did the Drakefords obtain the mortgage loan primarily for business purposes or primarily for consumer purposes?

_____Primarily business purposes _____Primarily consumer purposes

If you check "business purposes," then stop.

If you checked "consumer purposes," then continue.

Note: Do not concern yourself with what should be done with the loan, the judge will handle that.

2. What amount of compensation should be awarded to the Drakefords for their actual damages resulting from the TILA violation?

\$_____

3. What amount statutory damages should be awarded to the Drakefords for the TILA violation? (the amount may not be less than \$400 or greater than \$4000)

\$_____

Signed:_____

Presiding Juror_____

Dated:_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

CACI VF-300 Breach of Contract [Alternate to TILA rescission]

VERDICT FORM FOR BREACH OF CONTRACT CLAIM

To render your verdict on the Drakefords' claim for breach of contract, please answer each question by checking the appropriate box.

We the jury answer the questions submitted to us as follows:

1. Did the Drakefords do all, or substantially all, of the significant things that the contract required them to do?

_____ Yes

_____ No

OR

2. Were the Drakefords excused from having to do all, or substantially all, of the significant things that the contract required them to do?

_____ Yes

_____ No

If you answered "no" to both questions 1 and 2, then stop.

If you answered "yes" to either question 1 or 2, then continue.

3. Did the lender defendants do something that the contract prohibited?

_____ Yes

_____ No

If your answer is "yes" then answer question 4.

If your answer is "no," then stop.

4. Were the Drakefords harmed by the lender defendants' breach of the contract?

_____ Yes

_____ No

If your answer is "yes" then answer question 5.

If your answer is "no," then stop.

5. What are the Drakefords damages?

Economic damages: _____ [state amount]

Nominal damages: _____ [state \$1 if you award nominal damages]

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

Plaintiffs' Proposed Special Verdict Form for RESPA

VERDICT FORM FOR REAL ESTATE SETTLEMENT PROCEDURES ACT ("RESPA")
CLAIM

To render your verdict on the Drakefords' claim under Real Estate Settlement Procedures Act (a/k/a "RESPA"), please answer each question by checking the appropriate box.

We the jury answer the questions as follows:

1. Did the Drakefords obtain the mortgage loan primarily for business purposes or primarily for consumer purposes?

_____Primarily business purposes _____Primarily consumer purposes

Note: You must give the same answer to this question as you gave to the same question regarding TILA.

If you check "business purposes," then stop. If you checked "consumer purposes," then continue.

2. Did the defendants initiate foreclosure when the loan was less than 120 days delinquent?

_____Yes _____No

If your answer is "yes" then answer question 3.

If your answer is "no," then stop.

3. What amount of compensation should be awarded to the Drakefords for their actual damages resulting from the RESPA violation?

\$_____

4. Did Defendants Marcel Bruetsch and/or Capital Benefit, Inc. engaged in a pattern or practice of noncompliance with RESPA?

_____Yes _____No

If your answer is "yes" then answer question 5.

If your answer is "no," then stop.

5. What amount of statutory damages, if any, should be awarded to the Drakefords for the RESPA violation? (the amount may not exceed \$2000)

\$_____

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

Plaintiffs' Proposed Special Verdict Form for Breach of Fiduciary Duty

VERDICT FORM FOR BREACH OF FIDUCIARY DUTY CLAIMS

To render your verdict on the Drakefords' claims for breach of fiduciary duty, please answer each question by checking the appropriate box.

We the jury answer the questions as follows:

1. Did Defendants Marcel Bruetsch and/or Capital Benefit, Inc. breach fiduciary duties that they owed to the Drakefords?

_____ Yes _____ No

If your answer is "yes" then answer question 2.

If your answer is "no," then stop.

2. Were the Drakefords harmed?

_____ Yes _____ No

If your answer is "yes" then answer question 3.

If your answer is "no," then stop.

3. Was the conduct of Defendants a substantial factor in causing the harm?

_____ Yes _____ No

If your answer is "yes," then answer question 4.

If your answer is "no," then stop.

4. What are the Drakefords damages?

Economic damages: _____ [state amount]

Non-economic damages: _____ [state amount]

Nominal damages: _____[state \$1 if you award nominal damages]

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

Plaintiffs' Proposed Special Verdict Form re Damages Reconciliation

VERDICT FORM FOR DAMAGES

Please complete this verdict form if you awarded the Drakefords actual damages, economic damages, or non-economic damages in the prior verdict forms.

If you did not award such damages to the Drakefords above, then do not complete this form.

As you complete this form, do not consider any nominal damages or statutory damages that you awarded in the prior verdict forms.

The reason for this form is that you should not award either of the Drakefords the same actual damages, economic damages, or non-economic damages twice even if they are entitled to recover those damages under multiple legal theories.

What is the total amount of economic damages that you award to the Mr. and Mrs. Drakeford together?

_____ [state amount]

What is the total amount of noneconomic damages (such as emotional distress and mental suffering) that you award to Reginald Drakeford?

_____ [state amount]

What is the total amount of noneconomic damages (such as emotional distress and mental suffering) that you award to Rhonda Drakeford?

_____ [state amount]

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

CACI VF-3900 Punitive Damages (Bifurcated - Phase 1)

VERDICT FORM FOR PUNITIVE DAMAGES

We the jury answer the questions submitted to us as follows:

1. Did Defendant Marcel Bruetsch engage in conduct with malice, fraud, or oppression?

_____ Yes

_____ No

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.

CACI VF-3900 Punitive Damages (Bifurcated - Phase 2)

VERDICT FORM FOR PUNITIVE DAMAGES

We the jury answer the questions submitted to us as follows:

1. What amount of punitive damages do you award against Defendant Marcel Bruetsch?

_____ [state amount]

Signed:_____ Dated:_____

Presiding Juror_____

After all the verdict forms have been signed, notify the court attendant that you are ready to present your verdicts in the courtroom.